

PATENT APPLICATION
Serial Number: 10/814,723
Attorney Docket Number: OFE 1855

REMARKS

Applicant hereby submits this Response to the Office Action, Paper No.20081101—Date Mailed: November 4, 2008, for which a response is due February 4, 2009 by statutory period for reply set to expire three [3] months from the mailing date of the Office Communication.

Claims 1-63 are pending in the Application. Claims 1-63 are currently rejected.

"Claims 1-63 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-42 of co-pending Application No. 10/814,731. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the Claims 1-63 of the instant application are encompassed by the limitations of the Claims 1-42 of the above co-pending Application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented." [See Page 2, Paragraphs 2 and 3 of the Office Action.]

As Examiner stated on Page 2, Paragraph 1 of the Office Action:

"A timely filed Terminal Disclaimer in compliance with 37 CFR 1.321(d) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken with the scope of a joint research agreement."

Applicant has filed, concurrently with this Response to Office Action, a timely filed Terminal Disclaimer (and fee therefor) in compliance with 37 CFR 1.321(d) so as to overcome the provisional rejection based on a non-statutory obviousness-type double patenting as being unpatentable over Claims 1-42 of co-pending Application No. 10/814,731.

The fee for the Terminal Disclaimer is paid pursuant to the concurrently filed Fee Transmittal Form, as filed concurrently herewith.

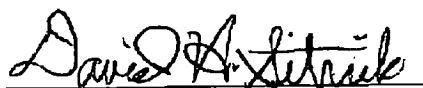
The Director has been previously authorized to charge any additional fees and credit any overpayments during the pendency of this application to Sitrick & Sitrick's Deposit Account Number: 50-1166. No new matter has been added. Reconsideration is respectfully requested.

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It is respectfully submitted that all basis of rejection and objection are traversed and overcome, and that the Application, including all pending Claims 1-63 herein, is in proper condition for allowance. Reconsideration is requested.

The Examiner is invited to directly communicate with the undersigned, if it will in any way facilitate the prosecution of the Application.

Respectfully submitted,



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